To: Kevin J. Martin, Chairman, FCC
From: Meredith Mallard
Date: October 27, 2005
Re: Comments on Proposed Rule to Eliminate the Morse Code Requirement for Amateur Radio Licenses

Dear Chairman Martin,

In response to the FCC's request for public comments, 70 Fed. Reg. 51,705 (Aug. 31, 2005), docket number 05-235, I want to address the proposed rule to eliminate the requirement that a person demonstrate his or her ability to send and receive correctly a Morse code telegraphy message in order to qualify for an amateur service operator license. I am a third year law student at the University of Tennessee and, having recently learned about the comment process in an Administrative Law class, wish to express my opinion on this topic. In sum, I am in favor of the proposed regulation and will explain below my reasons for believing that the present Morse code impediment is outdated, unnecessary, and, therefore, overly burdensome.

Introduction

Many currently licensed ham radio operators agree that the Morse code requirement should be eliminated. In fact, an organization has formed, No-Code International, which is "dedicated to the abolition of the Morse code testing requirement as a prerequisite for any class of Amateur Radio license."[1] On its website, No-Code lists the following reasons for why Morse code testing should be abolished: (1) the Morse code should not be afforded special protection as a mode of communication and those who do not wish to use it should not be required to learn it, (2) the Morse code is

[1] No-Code International, http://www.nocode.org (last visited Oct. 21, 2005).

outdated and has been replaced by more efficient means of communication, (3) requiring ham radio operators to learn the Morse code does not advance radio art, (4) there is no evidence that the Morse code makes an operator more qualified, (5) the requirement impedes in the granting of licenses to qualified individuals, and (6) the value of the Morse code is recreational and operators should not be required to learn it. I will elaborate in support of each of these justifications for eliminating the requirement.

The Morse Code Requirement Should Be Eliminated

The Morse code is an archaic mode of communication. Nowadays, ham operators have several other more modern, reliable, accurate, efficient, and faster ways to communicate, such as by using their voice, computers, or televisions.[2] It follows that "'[r]equiring amateurs to learn a system which is antiquated meets no public service need.'"[3] "[I]t's 'time for the Morse code to stand or fall of its own accord as a mode.'"[4]

Morse code, in its day, was a phenomenal method of communication. Prior to its invention, "news disseminat[ed] by pony express, steamer, and courier pigeon."[5] However, the Morse code has become the pony express of yesterday. Technology has advanced in a way that has diminished its significance. The Morse code is still prevalent only in poorer countries, where the technology is far behind that found in the United States.[6] Since the United States has the resources to do so, it should abandon requiring this outdated mode of communication.

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[2] Gary Krakow, *Ham Radio Operators to the Rescue after Katrina* (Sept. 6, 2005), http://msnbc.msn.com/id/9228945.
[3] The Arizona Skywarn Blog, *Hundreds File Comments on FCC Morse Proposal* (Aug. 5, 2005) (citation omitted), http://arizona-skywarn.org/wordpress/?p=12.
[4] *Id.* (citation omitted).
[5] Calvin Woodward, *Commercial Use of Morse Code Ends*, http://www.wjkane.com/ends.htm (last visited Oct. 21, 2005).
[6] *Id.*

The FCC's Morse code proficiency requirement is futile because, while the FCC demands that operators learn the Morse code in order to attain a license, the FCC does not require licensees to use the Morse code in their operations.[7] This suggests that the FCC has recognized that more efficient ways for operators to communicate now exist. This is further supported by the fact that "most applicants never use Morse again after they pass the test."[8]

Seafarers have already abandoned the use of the Morse code.[9] At sea, the telegraph has been superseded "by the telephone, data systems capable of reproducing printed works at the receiving end, satellite," email, and computer technology.[10] The International Maritime Organization and the U.S. Coast Guard have both officially ceased Morse operation.[11] In order for the Amateur Radio Service to have continued health, growth, and public service value in the 21st century, it must, likewise, modernize and simplify its amateur rules.

The International Radio Regulations adopted at the World Radiocommunication Conference in 2003 deleted the Morse testing requirement for amateur license applicants. The regulations permitted each country to determine whether it wished to continue requiring Morse code testing as a requirement for licensure. Several counties have already eliminated the Morse code requirement; the United States, as the "world leader" it proclaims itself to be, needs to follow suit and modernize its rules. "'[T]he [American

[7] *FCC Invites Comments on Six Morse Code-Related Petitions* (Aug. 29, 2003), http://www.arrl.org/news/stories/2003/08/29/2/?nc=1.
[8] *Id.*
[9] *See* Woodward, *supra* note 3.
[10] *Id.*
[11] *Id.*

Radio Relay] League will do itself a great disservice if it continues to seek to impose Morse testing in the U.S. rules as other countries around the world drop Morse testing *en masse*.'"[12]

With other countries abandoning the requirement, the Morse code is becoming even more outdated. At one time, value existed in the fact that the Morse code could be a universal international language. Now, with Switzerland, Belgium, the UK, Germany, Norway, and the Netherlands all among the countries who have eliminated the requirement, the value of the Morse code has been diminished.

It would be unsound to keep the Morse code requirement simply for "'the preservation of a radio art and as a tribute of support for a prized and respected advocation.'"[13] Supporters of the code requirement call it an "'important tradition,'" a "'universal language,'" "'the one sacred bastion left to preserve the history and continuance of the Amateur Radio Service,'" and something that "creates a sense of community among radio amateurs."[14] While I do not doubt the historical significance of the Morse code as the foundation of the Amateur Radio Service, history does not justify its continued survival. While operators should be permitted to continue to use the Morse code out of respect for the pastime and as a tribute to their beginnings, they should not be required to do so. The requirement should not endure solely as a rite of passage into the amateur radio community, as a form of licensure-fraternity hazing.

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[12] *What to do About Morse? Code Requirement Remains on the Books in US, Canada* (July 22, 2003) (quoting No-Code International Executive Director and member of the ARRL Carl Stevenson, WK3C), http://www.arl.org/news/stories/2003/07/22/1/?nc=1.

[13] WIAW Bulletin ARLB061, *FCC Invites Comments on Additional Morse Code-Related Petitions* (Oct. 9, 2003) (citation omitted), http://www.2.arrl.org/w1aw/2003-arlb061.html.

[14] Arizona Skywarn Blog, *supra* note 3 (citations omitted).

The Morse code testing requirement, indeed, impedes entry in the world of amateur radio. Removing the requirement would encourage interested individuals to become amateur radio operators. In order to pass the Morse code test, most applicants must either pay to attend a course or purchase a course on tape. Although the Morse code proficiency required to pass the test is usually not difficult for applicants to learn, it is not the type of thing that they can learn by themselves. Thus, applicants must shell out typically around $40 in order to become code proficient. This cost would be justified were the FCC to require amateur radio operators to use the Morse code. However, because the FCC does not, this cost is a waste of the applicant's money. Applicants pay this fee in order to obtain their license; then, they are free to forget all of the information that they memorized for the exam.

The FCC has itself stated: "'[A]n individual's ability to demonstrate increased Morse code proficiency is not necessarily indicative of that individual's ability to contribute to the advancement of the radio art.'"[15] Thus, several otherwise qualified individuals, who could contribute to radio's advancement, are excluded from amateur radio for no good reason. Some applicants are simply unable to pass the Morse code test, even at the 5 WPM level. Since their proficiency for Morse code bears nothing on how they would function as ham radio operators, it is absurd that they are excluded for this reason.

Instead of hindering entrance into the ham operator community, our government should be encouraging it. Amateur radio operators, since the 1920s, have regularly

[15] *What to do About Morse?*, *supra* note 12 (quoting the FCC).

assisted in emergency situations. Their assistance is important because ham radios are operated by battery and are able to communicate when telephones and wireless service are down. Most recently, ham radio operators were "instrumental in helping residents in the hardest hit areas" to escape the destruction of Hurricane Katrina.[16] Many ham operators voluntarily registered to aid in the public service; operators from as far as Connecticut enlisted to provide emergency communications, at their own expense, in areas affected by Katrina. The federal government has recognized their contributions by providing a $100,000 grant to support emergency communication operators who are helping with the Gulf Coast disaster.

Ham radio operators are characteristically generous people, who help in emergency situations not out of hope for monetary compensation but, instead, out of their appreciation of their position to be of assistance. In addition to the current situation in the Gulf Coast, ham radio operators were valuable in transferring messages out of New York City after the September 11, 2001 terrorist attacks. "'The US could certainly use more trained radio operators considering the post 9/11 world we live in. . . . Additional roadblocks . . . make no sense today.'"[17]

The United States has already taken some steps to alleviate the burden of the Morse code requirement. A few years ago, the FCC reduced the code requirement, so that applicants only had to be proficient in the lowest transmission rate ever used, 5 WPM. "When the 20 [WPM] requirement for extra class was lowered to 5 [WPM], the Morse requirement was effectively eliminated. With a half an hour a day commitment

[16] Krakow, supra note 2.
[17] Arizona Skywarn Blog, *supra* note 3 (citation omitted).

most people in a month or two can learn Morse good enough to pass the [Morse test at 5 WPM]."[18] Operators stress how easy the Morse code test is to pass. One operator asserts: "Even if you don't want to learn code, you can pass the test!"[19] As the test currently exists, the code requirement is meaningless. The minimum level of proficiency required is of no practical value in ham radio operation, as applicants can pass the test without even learning the code.

Even though in recent years the Morse code requirement has been 5 WPM, most operators who use the Morse code have insisted on being proficient at 15 WPM and up.[20] Operators view 5 WPM as just a place to start with learning Morse. Obviously, there is an allure to the Morse code that inspires operators to become skilled in its use on their own accord. Therefore, many operators who are licensed without the Morse code requirement may, nonetheless, opt to learn it. A present operator predicts: "[M]any new no code amateurs will soon . . . decide to learn Morse at 15 WPM to join in on the fun."[21]

Admittedly, the Morse code is a useful and unique mode of communication. Many operators would likely continue to learn and use it even if proficiency in its communication were no longer a requirement for licensure. One operator describes the Morse code as "'the purest, most accurate, efficient, reliable and economical form of radio communications ever devised.'"[22] Benefits exist to Morse code communication, suggesting that operators should take advantage of its efficiency. However, as an

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[18]Dan Rowlan, *From the Veep*, The Short Circuit, Aug. 2005, at 1, http://www.avarc.av.org.
[19]Ed, aa2mz, *Ham Alone – Passing the Code Test*, http://www.irony.com/hamlcw.html (last visited Oct. 21, 2005).
[20]Rowlan, *supra* note 18.
[21]*Id.*
[22]*FCC Invites Comments on Six Morse Code-Related Petitions*, *supra* note 17 (citation omitted).

outdated mode of communication, its proficiency should no longer be required.

Publishers of Morse code study materials should not fret the elimination of the Morse requirement for amateur radio licenses. As previously stated, many ham radio operators will continue to learn Morse. In addition, other uses for the Morse code may be discovered. One inventor has suggested that the Morse code be used on cell phones for text messaging and to aid in using cell phones in a hands-free mode.[23] This would be beneficial because, as cellular phones are all about mobility, they should demand as little visual attention as possible so that users can pay attention to their surroundings instead.

Conclusion

The FCC should amend the amateur radio service rules to eliminate the requirement that individuals pass a telegraphy Morse code examination in order to qualify for any amateur radio operator license. First of all, the requirements for Morse code were established by treaty. Now, since the 2003 World Radiocommunication Conference has abandoned the Morse requirement and several countries have already eliminated it as a requirement for licensure, it is time for the United States to modernize it rules.

In addition, it is important to note that FCC licenses for ham radio operators are necessary only because ham operators are permitted to build their own equipment without restriction. The licensing process helps the FCC to make sure that operators do not interfere with other radio communications. The Morse code has no connection to the purpose of licensure. A ham radio operator has no real need for the Morse code; thus, Morse code proficiency should not be a prerequisite for licensure.

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[23] Brian McConnell, *Back to the Future – Morse Code and Cellular Phones* (Jun. 28, 2005), http://www.oreillynet.com/pub/wlg/7016.

I understand that the Morse code requirement helps to weed out less intelligent applicants --- those unable to memorize the Morse code for the purposes of the exam. Thus, there is a valid fear that the elimination of the Morse exam will reduce the skill required to attain a license. However, the FCC should not continue to require proficiency in an archaic mode of communication. The FCC can assure by other means that the Amateur Radio Service maintains the highest standard of excellence. As an alternative, the FCC should strengthen the other segments of the exam. That way the Amateur Radio Service will be able to keep their membership elite and avoid the greater number of participants sure to come on the scene once the Morse code requirement is eliminated. These other testing areas, unlike the Morse code, are at least useful to the operation of ham radios and, as so, will help to enhance the quality of ham radio operations.